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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/683,754	10/10/2003	Reinhold Schneider-Nieskens	SCHNEIDER-NIESKENS	5049
25889	7590	03/07/2006	- 3	
			EXAMINER	
			ISABELLA, DAVID J	
			ART UNIT	PAPER NUMBER
			3738	

DATE MAILED: 03/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.	SCHNEIDER-NIESKENS, REINHOLD
Examiner DAVID J. ISABELLA	Art Unit 3738

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1) Responsive to communication(s) filed on 13 December 2005.  
2a) This action is FINAL. 2b) This action is non-final.  
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

4) Claim(s) 2-5,7,11,12 and 14 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) Claim(s) 2-5,7,11,12 is/are allowed.  
6) Claim(s) 14 is/are rejected.  
7) Claim(s) \_\_\_\_\_ is/are objected to.  
8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9) The specification is objected to by the Examiner.  
10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

1) Notice of References Cited (PTO-892)  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) Notice of Informal Patent Application (PTO-152)  
6) Other: \_\_\_\_\_.

***Status of the Claims***

Currently claims 2-5,7,11,12,14 are pending. Claims 1, 6,8-10 and 13 have been cancelled. Claim 12 was indicated to be allowable and claims 2-5,7,11 have been amended to depend from therefrom. Claim 14 was amended and remains broader in scope than claim 12.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

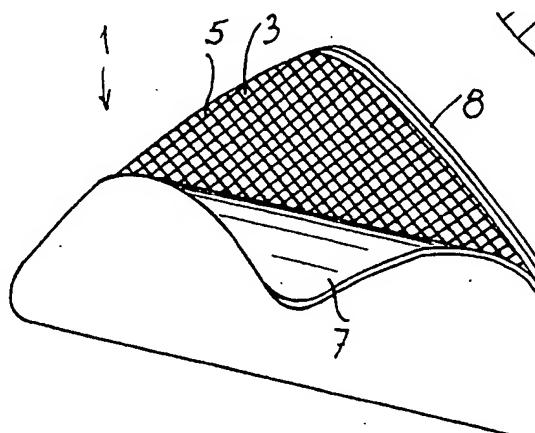
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 14 is rejected under 35 U.S.C. 102(b) as being anticipated by Brogan (GB 2270628).

Brogan discloses a breast prosthesis comprising: a back section adapted for facing a user; and an adhesive element forming a continuous surface substantially conforming to said back section of said breast prosthesis; said adhesive element extending over a majority portion of said back section and comprising an inner body comprising a semirigid material; wherein a side of said adhesive element facing said breast prosthesis is detachably secured to said back section of said breast prosthesis and a side of said adhesive element adapted for facing a user is detachably adherable to the user.

Contrary to applicant's arguments, the adhesive element (5) when applied to the supporting substrate (3) of Brogan does produce a continuous adhesive surface over substantially the entire surface of the supporting substrate (3). According to Brogan, the grid pattern is formed with continuous lines across the entire surface of the supporting substrate. As broadly interpreted, claim 14 fails to distinguish over the adhesive pattern of Brogan. The interpretation of continuous would not apply to the embodiment shown in figure 1 of Brogan



*Fig. 2*

Applicant argues that Brogan's device is "selectively incomplete" adhesive coverages differs considerably in structure and function from the adhesive element as recited in claim 14. Examiner disagrees with applicant's interpretation of the language of Claim 14. While the claim contains the recitation of "adhesive covering substantially an entire surface", this language does not preclude a grid pattern of lines that cover "substantially the entire surface" of the supporting substrate of Brogan.

***Response to Arguments***

Applicant's arguments filed 12/13/2005 have been fully considered but they are not persuasive. See examiner's arguments in the body of the rejection supra.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID J. ISABELLA whose telephone number is 571-272-4749. The examiner can normally be reached on MONDAY-FRIDAY.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, CORRINE MCDERMOTT can be reached on 571-272-4754. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



DAVID J ISABELLA  
Primary Examiner  
Art Unit 3738

DJI  
3/3/2006